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MAR 24 1998
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March 23, 1998

FEDERAL EXPRESS

Mr. John Ricker, Director
Universal Service Administrative Company
100 South Jefferson Road
Whippany, NJ 07981

Ms. Christine Boreyko
National Exchange Carrier Association
100 South Jefferson Road
Whippany, NJ 07981

Ms. Sheryl Todd
Federal Communications Commission
Universal Service Branch
CC Docket No. 96-45
2100 M Street, N.W., 8th Floor
Washington, DC 20554

Office of the Secretary
CC Docket No. 96-45
Federal Communications Commission
900 M Street, N.W., Room 222
Washington, DC 20554

Re: CC Docket No. 96-45: Universal Service and Eligible
Telecommunications Carrier

Dear Mr. Ricker, Ms. Todd and Ms. Boreyko:

This letter is being provided to the Universal Service Administrative Company ("USAC"), the Federal Communications Commission ("FCC") and the National Exchange Carrier Association ("NECA"), on behalf of United Telephone Company of New Jersey, Inc. ("United"), as directed by the FCC's publications of August 14, 1997, at DA 97-1747 and September 29, 1997, DA 97-1892. This letter notifies the USAC, the FCC and NECA that the New Jersey Board of Public Utilities ("BPU") has authorized United to be designated as an Eligible Telecommunications Carrier ("ETC"), consistent with Section 214(e) of the Telecommunications Act of 1996 ("Act"). The BPU also has approved United's Lifeline Service tariff.

In support of that designation, and in accordance with Paragraph 23 of the Fourth Order on Reconsideration, released December 30, 1997, by the FCC, United states as follows:

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List A B C D E

Mr. John Ricker
Ms. Christine Boreyko
Ms. Sheryl Todd
Office of the Secretary
Page 2
March 23, 1998

1. In Paragraph 23 of the Fourth Order on Reconsideration in CC Docket No. 96-45, released December 30, 1997, the FCC encouraged relevant carriers to file information demonstrating that they took reasonable steps to be designated as Eligible Telecommunications Carriers by January 1, 1998. The FCC further found that it was in the public interest to permit telecommunications carriers that were eligible to receive support on January 1, 1998, but that were not designated as eligible by their state commission by that date, to be permitted to seek retroactive support.

2. The FCC further found that allowing retroactive support would permit consumers served by those carriers to benefit from the support to which those carriers would have been entitled, but for circumstances that prevented the state commission from designating the carriers as eligible for receipt of Universal Service support prior to January 1, 1998.

3. By letter dated November 7, 1997, United filed a petition with the New Jersey BPU, seeking approval to be designated an ETC pursuant to Section 102 of the Act.

4. In that filing with the BPU, United asserted that it provides all of the services required in the FCC's regulations at 47 C.F.R. §§54.201(d) and 54.101. In addition, United provided evidence that it met the requirements of 47 C.F.R. §54.405 that requires that all ETC's shall make available Lifeline service as defined in 47 C.F.R. §54.401.

5. In its filing with the BPU, United averred that it provides all of the requisite services, with the except of toll limitation services. United requested and received a waiver of the toll limitation requirements in light of the fact that United is incapable of providing toll control services as defined by 47 C.F.R. §54.400(c). The BPU approved United's filing by Order issued January 23, 1998. The BPU's Order is silent as to the effective date of United's ETC status. See, Appendix A attached hereto.

6. On December 2, 1997, United also filed a petition requesting BPU approval of a Lifeline Service tariff. By Order dated January 23, 1998, the BPU found that United's Lifeline proposal will promote Universal Service in New Jersey by making basic telephone service more affordable to low-income consumers, and, therefore, the petition was in the public interest. The Board also found that United should be granted a limited waiver of its obligation to provide toll control services. Finally, the BPU found that United's proposal complies with relevant FCC regulations. The BPU's Order approved United's tariff, effective February 1, 1998. See, Appendix B attached hereto.

Mr. John Ricker
Ms. Christine Boreyko
Ms. Sheryl Todd
Office of the Secretary
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March 23, 1998

7. While the BPU's Order, designating United to be an ETC for the geographic areas that it currently serves, was not entered until January 23, 1998, United submits that it should be retroactive to January 1, 1998. The Lifeline Order also does not designate that Universal Service support should be retroactive to January 1, 1998, which United submits was simply an administrative oversight on the part of the BPU.

8. As explained above, United undertook all reasonable steps to be designated as an Eligible Telecommunications Carrier by January 1, 1998. As the FCC is well aware, state commissions actively have been involved in numerous issues associated with Universal Service and Access Charge Reform since the promulgation of the FCC's Orders under the Act.

9. United submits that its eligibility as an ETC for all of the above-stated reasons should be retroactive to January 1, 1998, in order to allow United to receive Universal Service funds as of January 1, 1998.

10. United receives approximately \$100,000.00 per month from the Universal Service Fund for its New Jersey customers. The inadvertent omission of an effective date should not jeopardize United's customers in the receipt of Universal Service support for high-cost, rural areas.

11. Recognizing that the omission of the January 1, 1998, effective date was likely an oversight on the part of the BPU, United filed a Motion for Reconsideration on February 9, 1998, requesting that the BPU approve United's petitions for ETC status and its Lifeline Plan, effective January 1, 1998. That Motion is still before the BPU for consideration. See, Appendix C attached hereto.

12. In light of the need to avoid an adverse impact on United and its rural customers, and to avoid any disruption in United's receipt of Universal Service support, United respectfully states that it has taken all reasonable steps to be designated as an Eligible Telecommunications Carriers by January 1, 1998, and it is in the public interest to permit United to receive Universal Service support effective January 1, 1998.

13. The Division of the Ratepayer Advocate for the State of New Jersey has filed a Letter Brief in support of United's Motion for Reconsideration, approving its ETC status and its Lifeline service, retroactive to January 1, 1998. See, Appendix D attached hereto and incorporated herein by reference. Clearly, the public interest requires that United's request be granted.

Mr. John Ricker
Ms. Christine Boreyko
Ms. Sheryl Todd
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Page 4
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WHEREFORE, for all of the reasons set forth above, United respectfully requests that it be allowed to receive Universal Service funds, retroactive to January 1, 1998, and that its status as an ETC and its Lifeline Plan be deemed approved effective that date.

Any questions should be directed to Russell R. Gutshall at 717/245-6205 or me.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "H. Kay Dailey". The signature is fluid and cursive, with the first name "H." and last name "Dailey" clearly visible.

H. Kay Dailey

HKD/pn
Enclosure

cc: Herbert H. Tate, President
New Jersey Board of Public Utilities
Carmen J. Armenti, Commissioner
New Jersey Board of Public Utilities
Bruce Gallagher
New Jersey Board of Public Utilities



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

Appendix A

AGENDA DATE: 1/22/98

RECEIVED
MAR 24 1998
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TELECOMMUNICATIONS

IN THE MATTER OF A PETITION BY)
UNITED TELEPHONE COMPANY OF NEW)
JERSEY, INC. FOR DESIGNATION AS)
AN ELIGIBLE TELECOMMUNICATIONS)
CARRIER UNDER THE TELECOMMUNI-)
CATIONS ACT OF 1996)

ORDER OF APPROVAL

DOCKET NO. TO97110828

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated November 7, 1997, United Telephone Company of New Jersey, Inc. (United) filed a petition with the Board of Public Utilities (Board) seeking approval to be designated an Eligible Telecommunications Carrier (ETC) pursuant to Section 102 of the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56 (codified at 47 U.S.C. §151 et seq.) (the Act), and specifically, 47 U.S.C. §214(e) and 47 C.F.R. §54.400 et seq. Pursuant to the Act, only a common carrier which is designated as an ETC shall be eligible to receive universal service support. 47 U.S.C. 214(e)(1). Under the Act, in order to be eligible for universal service support, it is necessary for a telephone company, such as United, to be designated an ETC by the Board. 47 U.S.C. §214(e)(2); 47 C.F.R. §54.201(b).

Pursuant to Federal Communications Commission (FCC) regulations, an ETC must offer the following:

- (1) voice grade access to the public switched network;
- (2) local usage defined as an amount of minutes of use of exchange service, prescribed by the Commission, provided free of charge to end users;
- (3) dual tone multi-frequency signaling or its functional equivalent;
- (4) single-party service or its functional equivalent;
- (5) access to emergency services;
- (6) access to operator services;
- (7) access to interexchange services;

- (8) access to directory assistance; and
- (9) toll limitation for qualifying low income customers.

See 47 C.F.R. §§54.201(d) and 54.101. In addition, 47 C.F.R. §54.405 requires that all ETCs shall make available Lifeline Service as defined in 47 C.F.R. §54.401.

In its filing, United asserted that it provides all of the above services with the exception of toll limitation services. United has requested a waiver, of the FCC's toll limitation requirements in light of the fact that it is incapable of providing toll control services as defined by 47 C.F.R. §54.400(c). United argued that the toll control requirement constitutes a misunderstanding regarding rational expectations of local exchange carrier capabilities, and that the issue will likely be reevaluated in FCC reconsideration orders. United requested that the Board grant a "blanket waiver" with respect to the toll control requirement until such time as the FCC acts upon pending requests for reconsideration of its Universal Service Order.

Finally, we note that at the time of its ETC filing, United did not have an approved Lifeline program in place as required of all ETC's by 47 C.F.R. §54.405. As will be explained below, shortly after this petition was filed, United filed a request for approval of a Lifeline service tariff.

Discussion

On December 2, 1997, United filed a petition (Docket No. TT97120880) requesting Board approval of a Lifeline Service tariff. Lifeline Service is a retail service offering available only to qualifying low-income consumers pursuant to which such consumers pay reduced charges for certain services or functionalities enumerated in FCC regulations as a result of the application of federal and/or state universal service support mechanisms. 47 C.F.R. §54.401. On January 1, 1998, \$3.50 per month per individual residence line in federal support is available to qualified ETCs providing Lifeline Service, with an additional \$1.75 also available without matching funds if the state requests it, and finally up to \$1.75 more is available depending on matching state support funding. Approval of United's Lifeline Service filing has been granted for the reasons set forth in the Board's Order of Approval, dated as of the date of this Order, in I/M/O a Petition by United Telephone Company of New Jersey, Inc. for Approval to Provide Lifeline Service, Docket No. TT97120880.

With regard to the requirement that United provide toll limitation services pursuant to 47 C.F.R. §§54.101(a) and 54.401(a)(3), and as defined at 47 C.F.R. §54.400, the Board, for the reasons enunciated in our Order of Approval in United's Lifeline docket, has granted this waiver subject to United reporting to Staff on the status of toll control one year after the date of that Order. The report should state whether toll control is technically feasible as the services is defined by the FCC and, if so, when United can implement it.

Finally, pursuant to 47 C.F.R. §54.201(d)(2), an ETC must "advertise the availability of [the above-referenced] services and charges using media of general distribution." United has indicated and the Board agrees that United's standard subscriber notification and public notice procedures including the use of the customer information Section of their directory, and its plans to advertise the availability of Lifeline Service via newspaper advertisement and bill imprints satisfies this requirement.

Having thoroughly considered this matter, and in concert with our Order of Approval at Docket No. TT97120880, the Board **FINDS** that United meets the requirements of 47 U.S.C. §214(e). Therefore, the Board **HEREBY DESIGNATES** United Telephone Company of New Jersey, Inc. an ETC for the geographic areas which it currently serves.

DATE: 1-23-98

BOARD OF PUBLIC UTILITIES
BY

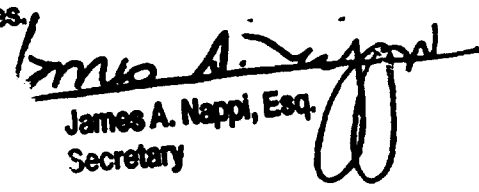

HERBERT H. TATE
PRESIDENT


CARMEN J. ARMENTI
COMMISSIONER

ATTEST:


JAMES A. NAPPI, Esq.
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
the files of the Board of Public
Utilities.


James A. Nappi, Esq.
Secretary

PETITION OF UNITED TELEPHONE COMPANY OF
NEW JERSEY, INC. TO BE DESIGNATED AN
ELIGIBLE TELECOMMUNICATIONS CARRIER

SERVICE LIST
DOCKET NO. TT97110828

H. Kay Dailey, Esq.
United Telephone Company of
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1201 Walnut Bottom Road
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Eugene P. Provost, DAG
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Robert Melendez
Bruce W. Gallagher
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Blossom A. Peretz, Director
State of New Jersey
Dept. of the Treasury
Division of Ratepayer Advocate
31 Clinton Street, 11th Floor
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AGENDA DATE: 1/22/98

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

RECEIVED
MAR 2 1998
FCC
TELECOMMUNICATIONS

IN THE MATTER OF A PETITION BY)
UNITED TELEPHONE COMPANY OF)
NEW JERSEY, INC. FOR APPROVAL)
TO PROVIDE LIFELINE SERVICE)

ORDER OF APPROVAL

DOCKET NO. TT97120880

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated December 2, 1997, United Telephone Company of New Jersey, Inc. (United) filed a petition with the Board of Public Utilities (Board) to provide Lifeline Service to qualified customers by revising its tariff N.J. B.P.U. No.3. This service will enable United to comply with the requirements of 47 C.F.R. 54.405 that "[a]ll eligible telecommunications carriers shall make available Lifeline service, as defined in §54.401, to qualifying low income customers."¹ Pursuant to Federal Communications Commission (FCC) regulations, the following requirements must be met in order to provide Lifeline Service:

- (1) voice grade access to the public switched network;
- (2) local usage defined as an amount of minutes of use of exchange service, prescribed by the Commission, provided free of charge to end users;
- (3) dual tone multi-frequency signaling or its functional equivalent;
- (4) single-party service or its functional equivalent;
- (5) access to emergency services;
- (6) access to operator services;
- (7) access to interexchange services;
- (8) access to directory assistance; and
- (9) toll limitation for qualifying low income customers.

See 47 C.F.R. §§54.401 (a) (3) and 54.101.

¹ 47 C.F.R. §54.101, generally, sets forth the services and functionalities which shall be supported by federal universal support mechanisms for rural, insular and high cost areas. 47 C.F.R. §54.101 (c) provides that a state public utility commission may grant a telecommunications carrier, which is otherwise eligible to receive universal service support under 47 C.F.R. 54.201, additional time to complete the network upgrades needed to provide single-party service, access to enhanced 911 service, or toll limitation.

According to the filing, United's Lifeline Service is designed to lower the cost of basic telephone service for low income customers by providing credit of \$5.25 per month, composed of \$3.50 to offset the federal Subscriber Line Charge and an additional \$1.75 credit also provided by federal sources against the cost of local service.

In order to qualify for United's Lifeline services, a customer must be certified as income eligible or a recipient of benefits from any one of the following programs administered by the State of New Jersey or the Federal Government:

- (1) Temporary Assistance to Needy Families/Work First New Jersey;
- (2) General Assistance;
- (3) Home Energy Assistance Program;
- (4) Pharmaceutical Assistance to the Aged and Disabled;
- (5) Supplemental Security Income Medicaid;
- (6) Lifeline Utility Credit/Tenants Lifeline Assistance; or
- (7) Food Stamp Program.

United has proposed that Lifeline Service customers be blocked from access to 700, 900, 976 and all other announcement services and from optional services other than those required for protection or privacy e.g., non-published listing, Call Block, and Call Trace. Because of the expense of Caller ID service to the customer, United does not plan to advertise its availability to Lifeline subscribers, but will provide it to those who request it. In addition, according to the petition, Lifeline Service customers with a past due balance of \$20.00 or more in toll charges will be toll restricted until the balance is paid. The petition also provides that a restoration of service charge will apply to the restoration of toll service.

United has also agreed as part of this filing to place advertisements in local papers regarding the availability of Lifeline Service, issue a direct mail notification to eligible subscribers and further to announce the availability of Lifeline Service semi-annually via imprint on their customers bills.

DISCUSSION

The FCC requires that for a carrier to be eligible to receive universal service funding it must provide Lifeline Service. 47 C.F.R. §54.405. Pursuant to 47 U.S.C. §214(e), only an ETC shall be eligible to receive federal universal service funds, and the Board, upon its own motion or upon request, is empowered to designate a common carrier an ETC. United filed a petition on November 7, 1997 requesting designation by this Board as an ETC. That petition is being considered separately at Docket No. T097110828.

The Board notes that among the services or functionalities which shall be supported by federal universal services support mechanisms is a requirement that the carrier offer toll limitation for qualifying low-income consumers. 47 C.F.R. §54.101(a)(9); §54.401(a)(3). Toll limitation is defined to include both toll blocking and toll control. 47 C.F.R. §54.400(d). Toll blocking is a

service which lets consumers elect not to allow the completion of outgoing toll calls from their telephone, and toll control is a service which lets consumers specify a certain amount of toll usage that may be incurred on their telephone per month or per billing cycle. 47 C.F.R. §54.400(b) and (c).

In this filing, United is offering only toll blocking (at no charge). However, in its companion filing requesting ETC status (Docket No. TO97110828), it asserts that virtually no local exchange provider (LEC) in the nation is capable of providing toll control, which would require real-time capability to record and rate every call instantaneously as the caller attempts to make a call and also assumes that LEC's will be able to differentiate between toll calls and other types of calls. Pursuant to FCC regulations, the Board may grant a petition of a carrier, otherwise eligible to receive universal service support, which requests additional time to complete network upgrades to provide toll limitation services upon a finding that exceptional circumstances prevent such a carrier from providing toll limitation services. 47 C.F.R. §54.101(c). In this matter, United has convinced the Board that it is technically incapable of providing the full gamut of toll limitation services to its customers which the FCC requires, solely because the technology to provide toll control services is not available.

Accordingly, the Board FINDS that an exceptional circumstance exists which prevents United from providing toll limitation as defined by the FCC. However, because United will make available toll blocking, the Board HEREBY GRANTS a waiver of United's obligation to provide toll limitation services limited to its inability to provide toll control services until such time as toll control services are technically feasible or the FCC modifies this obligation. The Board DIRECTS United to report to Staff one year from the date of this Order whether such toll control services are technically feasible as defined by the FCC, and if so, when United can implement it.

Therefore, having reviewed the relevant FCC rules regarding universal services support as well as the complete record in this matter, the Board FINDS that United's Lifeline proposal will promote universal service in New Jersey by making basic telephone service more affordable to low-income consumers, and is therefore in the public interest. The Board FINDS that having granted United a limited waiver of its obligation to provide toll control services, United's proposal complies with relevant FCC regulations.

Therefore, the Board HEREBY APPROVES this petition to become effective February 1, 1998 on an interim basis. The Board also ORDERS that United advertise the availability of Lifeline Service in local newspapers within its service territory, announce the availability of this service semi-annually, via bill imprint on its customers bills and send direct mail notification to all clients of the New Jersey Programs listed above within its service territory. In order that the FCC certify that United's Lifeline plan meets FCC requirements, the Board DIRECTS United to file information with the FCC as set forth in 47 C.F.R. §54.401(d), and provide a copy of such filing to the Board. Finally, the Board notes that United's Lifeline

program is subject to review in the context of the Board's ongoing generic proceeding, I/M/O the Investigation Regarding Local Exchange Competition for Telecommunications Services, Docket No. TX95120631, in which all aspects of universal service in New Jersey are being considered.

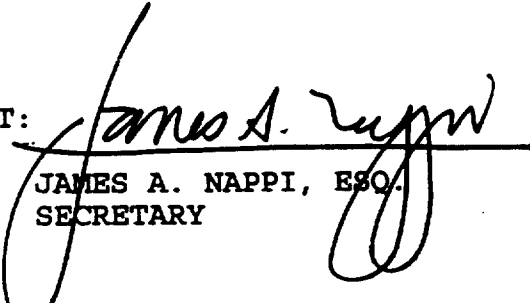
DATE: 1-23-98

BOARD OF PUBLIC UTILITIES
BY:


HERBERT H. TATE
PRESIDENT


CARMEN J. ARMENTI
COMMISSIONER

ATTEST:


JAMES A. NAPPI, ESQ.
SECRETARY

HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities.


James A. Nappi, Esq.
Secretary

PETITION OF UNITED TELEPHONE COMPANY OF
NEW JERSEY, INC. FOR APPROVAL TO PROVIDE LIFELINE SERVICE

SERVICE LIST
DOCKET NO. TT97120880

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Robert Melendez
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Blossom A. Peretz, Director
State of New Jersey
Dept. of the Treasury
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Appendix C



H. Kay Dailey
Senior Attorney

North Central Operations
1201 Walnut Bottom Road
Carlisle, Pennsylvania 17013-0905
Telephone (717) 245-6346
Fax (717) 240-4901

February 9, 1998

Mr. James A. Nappi, Secretary
New Jersey Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

Re: Docket Nos. TT97120880 and T097110828, In the Matter of a
Petition by United Telephone Company of New Jersey, Inc.
for Approval to Provide Lifeline Service, and In the
Matter of a Petition by United Telephone Company of New
Jersey, Inc. for Designation as an Eligible
Telecommunications Carrier Under the Telecommunications
Act of 1996

Dear Secretary Nappi:

Enclosed for filing, in accordance with N.J.A.C. 14:1-8.6,
please find an original and ten (10) copies of a Motion for
Reconsideration in the above-referenced proceedings.

Please time-stamp the additional copy and return it to me in
the enclosed, self-addressed stamped envelope. Thank you for your
cooperation.

Sincerely,

A handwritten signature in black ink that reads "H. Kay Dailey". The signature is fluid and cursive, with the first name "H." and last name "Dailey" clearly visible.

H. Kay Dailey

HKD/pn
Enclosures
cc: Service List

SERVICE LIST
DOCKET NOS. TT97120880 AND TO97110828

Michael P. Gallagher, Director
Robert Melendez
Bruce W. Gallagher
Board of Public Utilities
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Newark, NJ 07102

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State of New Jersey
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Newark, NJ 07101

Before the
NEW JERSEY BOARD OF PUBLIC UTILITIES

IN THE MATTER OF A PETITION :
BY UNITED TELEPHONE COMPANY :
OF NEW JERSEY, INC. FOR : DOCKET NO. TT97120880
APPROVAL TO PROVIDE LIFELINE :
SERVICE :

IN THE MATTER OF A PETITION BY :
UNITED TELEPHONE COMPANY OF :
NEW JERSEY, INC. FOR DESIGNATION : DOCKET NO. TO97110828
AS AN ELIGIBLE TELECOMMUNICATIONS :
CARRIER UNDER THE :
TELECOMMUNICATIONS ACT OF 1996 :

MOTION FOR RECONSIDERATION

1. By Orders issued January 23, 1998, the Board approved Petitions that United Telephone Company of New Jersey, Inc. ("United") filed with the Board to provide Lifeline Service to qualified customers, and to request designation as an Eligible Telecommunications Carrier ("ETC") under the Telecommunications Act of 1996 ("Act"). In the Lifeline Plan Order, the Board approved United's Petition to become effective February 1, 1998, on an interim basis. In the ETC Order, the Board did not provide an effective date for United's qualification as an ETC.

2. Under the FCC's Order at CC Docket No. 96-45, In the Matter of Federal-State Joint Board on Universal Service (Released May 8, 1997), and in accordance with subsequent FCC regulations at 47 C.F.R. §54.401, et seq., only carriers that are designated as Eligible Telecommunications Carriers by a state Commission pursuant to Section 214(e) of the Act, may receive federal Universal Service support after January 1, 1998, for serving rural, insular (high-cost

support) areas, or for providing Lifeline and Link-Up Services (low-income support).

3. The FCC concluded in its Universal Service Order that because new Universal Service support mechanisms must be in place in order to fund the revised Lifeline programs, a new Lifeline funding mechanism must begin on January 1, 1998. So as not to create a gap in United's ability to provide Lifeline Service and be designated as an ETC, United respectfully requests that the Board reconsider and clarify that United's Petition for Lifeline Service be effective January 1, 1998.

4. Also, by Order issued on January 23, 1998, the Board approved United's Petition requesting that the Board designate United as an ETC. Pursuant to the Act, only a common carrier which is designated as an ETC is eligible to receive Universal Service support.

5. In that Order, the Board found that United meets the requirements to be designated as an ETC for the geographic areas which it currently serves.

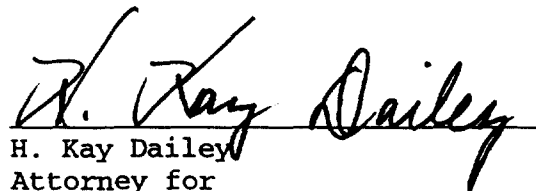
6. ~~Because the FCC recognized that state commissions might~~ have difficulty in acting on such petitions by January 1, 1998, in its Fourth Order on Reconsideration released December 30, 1997, the FCC provided a waiver process whereby state commissions could request that once a state Commission designates a carrier as eligible, it may provide justification as to why providing support retroactive to January 1, 1998, serves the public interest. See, Appendix A attached hereto and incorporated herein by reference.

7. By not making United's certificate and Lifeline Plan retroactive to January 1, 1998, there will be an adverse impact on United and its rural customers. United traditionally has relied on the high cost fund to provide affordable service to its customers in New Jersey, in the amount of approximately \$100,000 per month.

8. A recent FCC Report shows that companies in New Jersey will be contributing about \$9 million more to the high-cost and low-income programs. Any disruption in receipt of Universal Service support will affect United's ability to provide Universal Service in its high-cost, rural areas.

WHEREFORE, United respectfully requests that the Board make United's Lifeline Plan effective January 1, 1998. In that way, United will be able to comply with the requirements of 47 C.F.R. §54.405 that all eligible telecommunications carriers shall make available Lifeline Service as defined in Section 54.401 to qualifying low-income customers, effective January 1, 1998. United also requests that the Board file a Petition for Waiver with the FCC to designate United's qualification as an ETC, retroactive to January 1, 1998.

Respectfully submitted,



H. Kay Dailey
Attorney for
United Telephone Company
of New Jersey, Inc.
1201 Walnut Bottom Road
Carlisle, PA 17013
Telephone: 717/245-6346

Dated: February 9, 1998

1998, may be treated as retroactive to January 1, 1998.⁶²

3. Discussion

23. In light of section 254's directive that only carriers designated as eligible pursuant to section 214(e) shall be eligible to receive universal service support, we affirm our previous conclusion that, as of January 1, 1998, the temporary Administrator may not disburse support to carriers that have not been designated as eligible under section 214(e). Thus, if a carrier has not been designated as eligible by January 1, 1998, it may not receive support until such time as it is designated an eligible telecommunications carrier. This applies to all carriers, including those that currently receive universal service support under the existing support mechanisms. We agree with USTA, however, that a state commission that is unable to designate as an eligible telecommunications carrier, by January 1, 1998, a carrier that sought such designation before January 1, 1998, should be permitted, once it has designated such carrier, to file with the Commission a petition for waiver requesting that the carrier receive universal service support retroactive to January 1, 1998.⁶³ A state commission filing such a petition must explain why it did not designate such carrier as eligible by January 1, 1998 and provide a justification for why providing support retroactive to January 1, 1998 serves the public interest. We encourage relevant carriers to file information demonstrating that they took reasonable steps to be designated as eligible telecommunications carriers by January 1, 1998. We find that it is in the public interest to permit telecommunications carriers that were eligible to receive universal service support on January 1, 1998, but that were not designated as eligible by their state commission by that date, to be permitted to seek retroactive support. Allowing retroactive support will permit consumers served by those carriers to benefit from the support to which those carriers would have been entitled, but for circumstances that prevented the state commission from designating the carriers as eligible for receipt of universal service support prior to January 1, 1998.

24. In light of our conclusion above, we dismiss as moot the portion of USTA's petition requesting that carriers designated as eligible telecommunications carriers by March 31, 1998, be automatically entitled to receive support retroactive to January 1, 1998. Regarding NECA's concern that the Order does not specify a date by which state commissions must make their eligible carrier determinations, we note that the Bureau's

⁶² USTA Petition for Clarification, CC Docket No. 96-45, filed Dec. 11, 1997 (USTA informal comments).

⁶³ The deadline for filing petitions for reconsideration in a notice and comment rulemaking proceeding are prescribed in section 405 of the Communications Act of 1934, as amended. See 47 U.S.C. § 405(a). The Commission lacks discretion to waive this statutory requirement. See *Virgin Islands Telephone Corp. v. FCC*, 989 F.2d 1231, 1237 (D.C. Cir. 1993); *Renters Ltd. v. FCC*, 781 F.2d 946, 951-52 (D.C. Cir. 1986). The filing deadline for petitions for reconsideration of the Order was July 17, 1997. Therefore, to the extent that USTA's petition, filed December 11, 1997, seeks reconsideration of the Order, we will treat it as an informal comment.



MAR 09 1998

Appendix D

State of New Jersey

DIVISION OF THE RATEPAYER ADVOCATE

31 CLINTON STREET, 11TH FLOOR

P.O. Box 46005

NEWARK NJ 07101

CHRISTINE TODD WHITMAN
Governor

March 5, 1998

RECEIVED

MAR 24 1998

BLOSSOM A. PERETZ, ESQ.
Ratepayer Advocate
and DirectorJames A. Nappi, Secretary
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102Re: *I/M/O a Petition by United Telephone
Company of New Jersey, Inc. For Approval
to Provide Lifeline Service
BPU Docket No. TT97120880**I/M/O a Petition by United Telephone
Company of New Jersey, Inc. For Designation
as an Eligible Telecommunications Carrier
Under the Telecommunications Act of 1996
BPU Docket No. TO97110828*

Dear Secretary Nappi:

Please accept this letter brief in lieu of a more formal filing in support of United Telephone Company of New Jersey, Inc.'s ("United") Motion for Reconsideration in the above-referenced proceedings. The Board of Public Utilities ("Board") approved both of the above-referenced petitions at its January 23, 1997 meeting. In its Lifeline Order, the Board approved United's Petition to become effective February 1, 1998 on an interim basis. In its Eligible Telecommunications Carrier ("ETC") Order, the Board did not provide an effective date for United's qualification as an ETC. In its Motion for Reconsideration, United requests that the Board make its Lifeline Plan effective January 1, 1998 and that the Board file a Petition for Waiver with the FCC to designate United's qualification as an ETC retroactive to January 1, 1998. The Ratepayer Advocate supports United's requests and believes that the interests of New Jersey's ratepayers compel the Board to grant United's Motion.

The Federal Communications Commission ("FCC") requires that for a carrier to receive Universal Service support after January 1, 1998 it must provide Lifeline¹ and must be designated an

¹ 47 C.F.R. §54.405.

Eligible Telecommunications Carrier.² In our comments to the Board on United's Lifeline petition, the Ratepayer Advocate recommended approval, although we noted that United should have filed earlier than December 2, 1997, to provide the Board sufficient time to review the petition, ensuring that Lifeline would be available to United's customers as soon as possible. Because we found that United met the requirements of an ETC as of January 1, 1998, we recommended that the Board designate United an ETC no later than January 1, 1998.

The Board approved United's Lifeline petition as well as its designation as an ETC at its January 23, 1998 meeting. However, under the Board's Order, the Lifeline Plan became effective on February 1, 1998 and the Board did not provide an effective date for United's qualification as an ETC. Therefore, United may receive Universal Funds no earlier than February 1, 1998.

United has stated that it receives approximately \$100,000 per month from the Universal Service Fund. The Ratepayer Advocate supports United's Motion because the carrier states that any disruption in receipt of Universal Service support will affect United's ability to provide Universal Service in its high-cost, rural areas. The Ratepayer Advocate does not believe that United's customers should face such a threat, particularly when it may be avoided by Board action.

The Board has already faced a similar situation with Bell Atlantic - New Jersey, Inc.'s ("BA-NJ") request to be designated an ETC.³ There, as in the present case, the Board did not designate the carrier an ETC until after January 1, 1998. However, in its Order designating BA-NJ an ETC, the Board agreed with the carrier's request to file a waiver with the FCC, designating the carrier an ETC as of January 1, 1998, ensuring that BA-NJ could qualify for Universal Service Funds as of January 1, 1998. The Ratepayer Advocate finds United's request to be of equal merit and deserving of similar treatment. In fact, BA-NJ filed their request to be designated an ETC *later* than United and the Board did not address BA-NJ's petition until *later* than United's. The Ratepayer Advocate believes it would be unreasonable to treat United differently than BA-NJ, and unfair to United's customers.

In conclusion, the Ratepayer Advocate requests that the Board make United's Lifeline Plan effective January 1, 1998 and that the Board file a Petition for Waiver with the FCC to designate United an ETC retroactive to January 1, 1998.

² 47 U.S.C. §241(e).

³ See, Petition of Bell Atlantic - New Jersey, Inc. For Designation as an Eligible Telecommunications Carrier Under the Telecommunications Act of 1996, BPU Docket No. TT97120899.

Thank you for your attention to this matter. Please time/date stamp the additional copy and return it in the enclosed, self-addressed envelope.

Very truly yours,

Blossom A. Peretz, Esq.
Ratepayer Advocate



By: Carl Wolf Billek
Assistant Deputy Ratepayer Advocate

c: President Herbert H. Tate
Commissioner Carmen J. Armenti
Elizabeth Murray, Chief of Staff
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